

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

GYPSIE JONES,

NO. 2:05-cv-0535-MCE-KJM

Plaintiff,

v.

ORDER

SEARS ROEBUCK & CO.,  
dba SEARS #6178,

Defendant.

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On November 29, 2006, this Court entered judgment in favor of Defendant, finding that Plaintiff had no standing to sue for access barriers at a Sears store located more than 150 miles from her place or residence, where she had no reasonable likelihood of returning to the Sears store in question. Defendant now requests costs in the amount of \$782.85.

Pursuant to the provisions of 28 U.S.C. § 1919, the Court has authority to "order the payment of just costs" whenever "any action or suit is dismissed.... for want of jurisdiction."

1 An award of costs under § 191 is permissive and subject to the  
2 Court's discretion. Miles v. State of Cal., 320 F.3d 986, 988  
3 n.2 (9th Cir. 2003).

4 Under the circumstances of this case, where Plaintiff had  
5 visited the Sears store in question only once in seventeen years  
6 and lived over 150 miles away, the Court finds that costs in  
7 favor of Defendant are justified. Costs are therefore taxed in  
8 favor of Defendant in the sum of \$782.85.

9 IT IS SO ORDERED.

10 Dated: June 27, 2007

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13 MORRISON C. ENGLAND, JR.  
14 UNITED STATES DISTRICT JUDGE  
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